

to part 336 of this chapter. If USCIS does not consent to the withdrawal, the application for naturalization shall be adjudicated on its merits.

[56 FR 50498, Oct. 7, 1991, as amended at 76 FR 53801, Aug. 29, 2011]

PART 336—HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION

Sec.

336.1 Denial after section 335 examination.

336.2 USCIS hearing.

336.3–336.8 [Reserved]

336.9 Judicial review of denial determinations on applications for naturalization.

AUTHORITY: 8 U.S.C. 1103, 1443, 1447, 1448.

SOURCE: 56 FR 50499, Oct. 7, 1991, unless otherwise noted.

§ 336.1 Denial after section 335 examination.

(a) After completing all examination procedures contained in part 335 of this chapter and determining to deny an application for naturalization, USCIS will serve a written notice of denial upon an applicant for naturalization no later than 120 days after the date of the applicant's first examination on the application.

(b) A notice of denial shall be prepared in a written, narrative format, and shall recite, in clear concise language, the pertinent facts upon which the determination was based, the specific legal section or sections applicable to the finding of ineligibility, and the conclusions of law reached by the examining officer in rendering the decision. Such notice of denial shall also contain a specific statement of the applicant's right either to accept the determination of the examining officer, or request a hearing before an immigration officer.

(c) Service of the notice of denial must be by personal service as described in 8 CFR 103.8, or upon the attorney or representative of record as provided in part 292 of this chapter.

[56 FR 50499, Oct. 7, 1991, as amended at 76 FR 53802, Aug. 29, 2011]

§ 336.2 USCIS hearing.

(a) The applicant, or his or her authorized representative, may request a

hearing on the denial of the applicant's application for naturalization by filing a request with USCIS within thirty days after the applicant receives the notice of denial.

(b) Upon receipt of a timely request for a hearing, USCIS will schedule a review hearing, within a reasonable period of time not to exceed 180 days from the date upon which the appeal is filed. The review will be with an officer other than the officer who conducted the original examination or who rendered determination upon which the hearing is based, and who is classified at a grade level equal to or higher than the grade of the examining officer. The reviewing officer will have the authority and discretion to review the application for naturalization, to examine the applicant, and either to affirm the findings and determination of the original examining officer or to re-determine the original decision in whole or in part. The reviewing officer will also have the discretion to review any administrative record which was created as part of the examination procedures as well USCIS files and reports. He or she may receive new evidence or take such additional testimony as may be deemed relevant to the applicant's eligibility for naturalization or which the applicant seeks to provide. Based upon the complexity of the issues to be reviewed or determined, and upon the necessity of conducting further examinations with respect to essential naturalization requirements, such as literacy or civics knowledge, the reviewing immigration officer may, in his or her discretion, conduct a full *de novo* hearing or may utilize a less formal review procedure, as he or she deems reasonable and in the interest of justice.

(c) *Improperly filed request for hearing.*

(1) *Request for hearing filed by a person or entity not entitled to file.* (i) *Rejection without refund of filing fee.* A request for hearing filed by a person or entity who is not entitled to file such a request must be rejected as improperly filed. In such a case, any filing fee will not be refunded.

(ii) *Request for hearing by attorney or representative without proper Form G–28.* If a request for hearing is filed by an attorney or representative who has not